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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/687,340

10/17/2003

Yolla B. Levitt

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10/15/2007

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EXAMINER

KUGEL, TIMOTHY J

ART UNIT

PAPER NUMBER

1796

NOTIFICATION DATE

DELIVERY MODE

10/15/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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LegalDocketing@mmm.com

Office Action Summary

Application No.

10/687,340

Applicant(s)

LEVITT ET AL.

Examiner

Timothy J. Kugel

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,7-16 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,7-16 and 19-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-4,7-16 and 19-24 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-4, 7-16 and 19-24 are pending as amended on 4 September 2007, claims 5, 6, 17, 18 and 25-29 being cancelled.
2. The text of those sections of Title 35, US Code not included in this action can be found in a prior Office action.

Response to Amendment

3. Applicant's cancellation of claim 26, filed 4 September 2007, renders the following moot:

The rejection of claim 26 under 35 USC 102(e) as anticipated by US Patent 6,908,453 (Fleming hereinafter) has been withdrawn.

Claim Rejections - 35 USC § 112

4. Claim 19 stands rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19 recites the limitation "of claim 18". There is insufficient antecedent basis for this limitation in the claim as claim 18 has been cancelled. For the purpose of examination, claim 19 was construed to recite, "of claim 15".

Claim Rejections - 35 USC § 103

5. Claims 1-4, 7-16 and 19-24 stand rejected under 35 USC § 103(a) as being unpatentable over US Patent 4,784,789 (Jeschke hereinafter) in view of 6,313,182 (Lassila hereinafter).

Jeschke teaches a composition for treating surfaces (Column 1 Lines 5-12) comprising 0.02 to 5% of an amphoteric polymer (Column 2 Lines 22-48)—including anionic surfactants such as ethoxylated alkenols (Column 3 Lines 19-25)—and a surfactant—including alkylbenzene sulfonates containing 9 to 15 carbons in the alkyl group and alkali metals thereof (Column 3 Lines 31-63) from this which, one of ordinary skill in the art would immediately envisage the alkali metal salt of dodecyl benzene sulfonate—in a 20:1 to 1:1 ratio (Column 2 Lines 22-37) dissolved in water and a water soluble solvent—including C₂-C₁₂ alcohols such as ethanol and isopropanol (Column 5 Lines 8-20 and Example 1 Columns 8 Lines 30-47). Further, Jeschke teaches that the composition is dried after application Column 7 Lines 29-38 and 54-58).

Jeschke does not disclose expressly the use of the elected acetylenic diol ethylene oxide adduct.

Lassila discloses coating compositions comprising acetylenic diol ethylene oxide adducts (Abstract, Column 1 Lines 10-30 and Column 1 Line 39 – Column 2 Line 10).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the acetylenic diol ethylene oxide adduct of Lassila in the composition of Jeschke. The motivation to do so would have been to take advantage of the significant advantages of the alkoxylated acetylenic diols including the ability to be

applied to a variety of substrates, the ability to reduce coating defects, their environmental friendliness, and their capability to control foam (Lassila Column 6 Lines 29-55).

Since Jeschke and Lassila combine to teach the same composition as claimed, one of ordinary skill in the art at the time the invention was made would have expected that the results of the Spreading Drop Test, the phase of the surfactant composition at below 25° C, the melting point of the stabilizer and the contact angle on the hydrophilic surface of the Jeschke/Lassila composition would inherently be the same as claimed.

Response to Arguments

6. Applicant's arguments filed 4 September 2007 have been fully considered but they are not persuasive.

Applicant argues that the combination of the teachings of Jeschke and Lassila fails to teach a composition with the same properties as claimed since the composition of Jeschke necessarily contains amphoteric surfactants; however, first, applicant's use of the transitional term 'comprising', which is inclusive or open-ended and does not exclude additional, unrecited elements or method steps such as Jeschke's amphoteric surfactant and second, applicant merely argues, but has made no showing that the composition taught by Jeschke and Lassila fails to have the properties claimed.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Kugel whose telephone number is (571) 272-1460. The examiner can normally be reached 6:00 AM – 4:30 PM Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

Art Unit: 1796

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

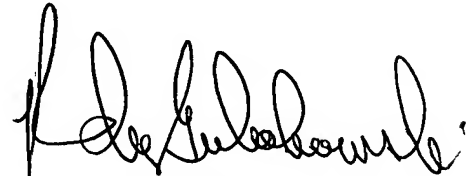
For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

/TJK/

Patent Examiner, AU 1796

A handwritten signature in black ink, appearing to read 'Randy Gulakowski', with a stylized, cursive script.

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700